



Staff Report

HEARING DATE: June 26, 2013

TO: Planning Commission

FROM: Scott Whyte, Senior Planner

PROPOSAL: **CU2013-0004 – Educational Institution at 9800 SW Nimbus**

LOCATION: Washington County Assessor's Map 1S1-27DC, Tax Lot 1000

SUMMARY: Conditional use proposal to operate a new school, Pre-Kindergarten through 12th Grade, Monday through Friday from 8:30am to 3:20pm, and on Sundays from 10:00am to 2:00pm. Total number of students is 160 (maximum enrollment). No building or site modifications are proposed and no outdoor play area is proposed. The school would be operated by the Muslim Educational Trust.

APPLICANT/
PROPERTY OWNER: Nimbus Watumull, LLC and Madrona Nimbus, LLC
Attn: James Winkler
210 SW Morrison Street, Suite 600
Portland, OR 97204

APPLICANT
REPRESENTATIVE: Perkins Coie
Attn: Steven Pfeiffer and Corinne Celko
1120 NW Couch Street, Tenth Floor
Portland, OR 97209-4128

TENANT: Muslim Educational Trust
Attn: Wajdi Said and Rania Ayoub
10330 SW Scholls Ferry Road
Tigard, OR 97223

DECISION CRITERIA: Development Code Sections 40.03 (*Facilities Review*) and 40.15.15.3.C (*Conditional Use*) and Policies d and h found under Goal 6.2.3 of the City Comprehensive Plan

RECOMMENDATIONS: **APPROVAL of CU2013-0004 – Educational Institution at 9800 SW Nimbus**, subject to conditions identified at the end of this report.

BACKGROUND FACTS

Key Application Dates

Application	Submittal Date	Deemed Complete	120 days from Complete	240-Day*
CU2013-0004	April 24, 2013	By applicant on May 9, 2013	September 6, 2013	December 14, 2013

* Pursuant to Section 50.25.9 of the Development Code, this is the latest date, with a continuance, by which a final written decision on the proposal can be made.

Existing Conditions Table

Zoning	Office Industrial – Washington Square (OI-WS)	
Current Development	The site is currently developed with a building, parking and landscaping. New Horizons Computer Learning Center (vocational school) was the last tenant to occupy the space.	
Site Size & Location	The subject site is located east side of SW Nimbus Avenue, north of SW Scholls Ferry Road. The total site area is approximately two acres.	
NAC	Greenway	
Comprehensive Plan	<p>Land Use: Regional Center</p> <p>Street Functional Classification Plan: SW Nimbus Avenue is classified as a Collector and SW Scholls Ferry Road is classified as an Arterial.</p> <p>Street Improvement Master Plan: The Transportation System Plan Street Improvement Master Plan does not identify improvements in the immediate vicinity of the subject site.</p> <p>Pedestrian & Bicycle Master Plan and Action Plans: The Pedestrian Action Plan identifies existing sidewalk facilities and bus stops in the vicinity (SW Scholls Ferry Road). The Pedestrian Action Plan also identifies existing sidewalk facilities along SW Nimbus Avenue. The Bicycle Action Plan identifies existing bicycle lanes on SW Scholls Ferry Road, and that Nimbus Avenue is a Collector without a Bicycle Lane.</p>	
Surrounding Uses	<p>Zoning:</p> <p><u>North:</u> OI-WS</p> <p><u>South:</u> OI-WS</p> <p><u>East:</u> OI-WS</p> <p><u>West:</u> C-WS</p>	<p>Uses:</p> <p><u>North:</u> Office</p> <p><u>South:</u> Financial Institution</p> <p><u>East:</u> Office</p> <p><u>West:</u> Commercial</p>

DESCRIPTION OF APPLICATION AND TABLE OF CONTENTS

	<u>Page No.</u>
Background Summary	SR 6
<u>Attachment A:</u> Facilities Review Committee Technical Review and Recommendation Report	FR1 – FR8
<u>Attachment B:</u> CU2013-0004 Response to Conditional Use Approval Criteria	CU1 - CU3
<u>Attachment F:</u> Conditions of Approval	COA1

Exhibits

Exhibit 1. Materials submitted by Staff

- Exhibit 1.1 Vicinity/Aerial/Zoning designations (page SR-4 of this report)
- Exhibit 1.2 Letter Submitted by Tualatin Valley Fire and Rescue dated May 22, 2013

Exhibit 2. Materials submitted by the Applicant

- Exhibit 2.1 Submittal Package that includes the following:
 - Narrative in support of the CU application and response to the approval criteria
 - Group Mackenzie letter dated April 24, 2013 “On-site Parking and Circulation”
 - Group Mackenzie letter dated April 24, 2013 “Transportation Analysis”
 - Letter from Perkins Coie dated May 23, 2013 “Response to Completeness Review” and referring to letter from Group Mackenzie letter dated May 23, 2013 “Transportation Response to Completeness Review Comments”
 - Letter from Perkins Coie dated June 14, 2013 “Supplemental narrative with drop-off/pick-up procedure.”
- Exhibit 2.2 Site Plan Exhibit A – AM Peak Arrival Queuing and Circulation Plan
- Exhibit 2.3 Site Plan Exhibit B – PM Peak Arrival Queuing and Circulation Plan

Vicinity/Aerial/Zoning Map

Exhibit 1.1

To Be Inserted

Insert Fire Marshal letter

Exhibit 1.2

Background Summary

The proposal is described in the document titled: *Narrative in Support of the Conditional Use Application Proposed by Nimbus Watumull, LLC and Madrona Nimbus, LLC*, prepared by the applicant's representative, Perkins Coie.

As the narrative describes, a proposed school, intended for students in Preschool/Kindergarten through the 12th grade, would be operated by the Muslim Educational Trust (MET). The applicant's narrative also explains how the school has a permanent location within the City of Tigard. The narrative includes a site plan showing the existing school campus at 10330 SW Scholls Ferry Road. Page 2 of the applicant's narrative identifies the operational aspects of the school, including current enrollment (at 156 students) and future anticipated enrollment (at 160 students). Hours of operation are identified along with a description of minor operations associated with the school.

The applicant's narrative does not describe the plans that MET has verbally conveyed to City staff for expanding school operations at the Tigard location. Staff understands that MET will begin construction very soon and that all school operations would move to the proposed Nimbus location during the period of construction (estimated at two years).

Staff notes that the proposal before the Planning Commission is not for a temporary use. While the proposal is to operate a school that is intended to suit the immediate needs of MET, approval of this Conditional Use will run-with-the-land, thereby allowing any other Pre-K through 12th grade school to operate at the same location under the same conditions.

**FACILITIES REVIEW COMMITTEE
TECHNICAL REVIEW AND RECOMMENDATIONS
Educational Institution at 9800 SW Nimbus Avenue
CU2013-0004**

Section 40.03 Facilities Review Committee:

The Facilities Review Committee has conducted a technical review of the application, in accordance with the criteria contained in Section 40.03 of the Development Code. The Committee's findings and recommended conditions of approval are provided to the decision-making authority.

The Facilities Review Committee Criteria for Approval (40.03 – A through L) are identified herein.

- A. All critical facilities and services related to the proposed development have, or can be improved to have, adequate capacity to serve the proposed development at the time of its completion.***

Findings: Chapter 90 of the Development Code defines "critical facilities" as services that include public water, public sanitary sewer, storm water drainage, treatment and detention, transportation and fire protection. In this case, no physical changes to the property are proposed. In response to Criterion A, the applicant states that the property is developed and critical facilities and services have adequate capacity to serve the proposed educational institution.

Staff concurs with the applicant's statement. Additionally, staff notes that the applicant's proposal has been reviewed by the City Engineer. No concerns were identified with respect to the adequacy of water, sanitary sewer or other facilities intended to serve the use.

Hereto staff identifies the scope of the proposal to allow operation of a new school, to the building and property identified herein. The applicant's narrative identifies the total number of students to be 160 (maximum enrollment). The school would operate from 8:30am to 3:20pm on Mondays through Fridays, and from 10:00am to 2:00pm on Sundays. No building or site modifications are proposed. No outdoor play area is proposed.

As for transportation, the applicant has provided a technical memorandum prepared by Group Mackenzie, dated April 24, 2013. This memorandum evaluates the trip generation characteristics of the proposed use in response to the threshold for Traffic Impact Analysis (TIA) as contained in the City Development Code (Section 60.55.20). The applicant's memorandum shows that the proposed use generates an average of 177 new trips per weekday (net) as compared to the previous use. This trip generation amount is less than the threshold for TIA which is 200 vehicles or more per day in average weekday trips. The Group Mackenzie memo shows that the former use (New Horizons Computer Learning Center) generated an average of about 220 net trips per weekday. The proposed use is estimated to generate a total of 397 average daily trips.

The City Traffic Engineer has reviewed the Group Mackenzie memo and finds that the potential traffic impacts attributable to the net addition of 177 trips is not significant enough to warrant additional analysis (Section 60.55.20.2.B). Accordingly, a TIA was not required as part of this

review and the existing transportation system is found to have adequate capacity to serve the proposal.

Therefore, the Committee finds the proposal meets the criterion for approval

B. Essential facilities and services related to the proposed development are available, or can be made available, with adequate capacity to serve the development prior to its occupancy. In lieu of providing essential facilities and services, a specific plan may be approved if it adequately demonstrates that essential facilities, services, or both will be provided to serve the proposed development within five (5) years of occupancy.

Findings: Chapter 90 of the Development Code defines “essential facilities” to be services that include schools, transit improvements, police protection, and on-site pedestrian and bicycle facilities in the public right-of-way. To Criterion B, the applicant states that the property is already developed and that essential facilities are available with adequate capacity to serve the proposed use.

In response to the applicant’s statement, staff notes that the proposal has been reviewed by the City Police Department. No concerns were conveyed with respect to providing service. Where the definition of essential facilities refers to schools and on-site pedestrian and bicycle facilities, staff notes that the property has been development with internal pathways separated from parking areas. There are no bicycle parking spaces provided on-site. However, as the applicant’s letter of June 14, 2013, describes, MET will provide a bicycle rack on-site.

There is also a sidewalk along the street frontage (SW Nimbus Avenue). This portion of SW Nimbus Avenue is fully improved but missing a bike lane on both sides of the street as per City EDM standards. In this case, no right-of-way dedication or bike lane improvements are recommended given the scope of the proposal.

As for transit improvements, staff notes that area is served by Tri-Met bus service (SW Scholls Ferry Road, bus lines 45, 62, and 92). No new transit facilities are proposed or recommended. The proposed school will not provide separate bus service and most students are expected to arrive and depart by private vehicle. As previously mentioned, a TIA was not required as part of this review. While existing traffic conditions have not been evaluated, staff has observed high traffic volume during the period between 5pm and 6pm along this portion of SW Nimbus (mostly southbound trips). Where the applicant proposes school hours to begin at 8:30am and end at 3:20pm, the same traffic volume conditions are not apparent. However, if school operations were to end near the weekday PM peak period for SW Nimbus, a left-out from the south access (per the applicant’s circulation plan) could be difficult and may deter the flow of vehicles through the drop-off/pick-up queue as shown. Accordingly, staff proposes a condition of approval that would limit school hours of operation on weekdays to the hours as described by the applicant, from 8:30am to 3:20pm. Herein, staff further evaluates the applicant’s plan for on-site circulation and vehicle queuing in response to Criterion F.

In summary, the Committee has reviewed the proposal and finds that essential facilities and services are available and adequate to serve the school, consistent with the hours of operation as conditioned.

Therefore, with the condition that limit the hours of operation, the Committee finds the proposal meets the criterion for approval.

- C. *The proposed development is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application; provided, however, if the approval of the proposed development is contingent upon one or more additional applications, and the same is not approved, then the proposed development must comply with all applicable provisions of Chapter 20 (Land Uses).***

Finding: Staff cites the findings in the Code Conformance Analysis chart at the end of the report, which evaluates the project as it relates the applicable Code requirements of Chapter 20 for the Office Industrial – Washington Square (OI-WS) zone. The applicant's response to Criterion C also refers to the OI-WS zone and accurately identifies educational institutions as conditionally permitted.

Therefore, the Committee finds the proposal meets the criterion for approval.

- D. *The proposed development is consistent with all applicable provisions of Chapter 60 (Special Requirements) and all improvements, dedications, or both, as required by the applicable provisions of Chapter 60 (Special Requirements), are provided or can be provided in rough proportion to the identified impact(s) of the proposed development.***

Finding: Staff cites the summarized findings shown to the Code Conformance Analysis chart at the end of the report, which evaluates the project as it relates to applicable Code requirements of Chapter 60.

Under Section 60.30.10.5.A (Off-Street Parking) the minimum number of required parking spaces for a High School is 0.2 spaces per number of full-time students and staff. For an Elementary or Middle School, the requirement is 1.0 space per number of full time staff.

In response to the parking standard, the applicant refers to the report prepared by Group Mackenzie titled "On-site Parking and Circulation" dated April 24, 2013. The subject property currently provides a total of 61 parking spaces and the Group Mackenzie report identifies a minimum of 37 parking spaces as required by Code. Staff notes that the applicant's calculation for required parking is conservative (taking the total number of staff at 23 and maximum enrolment at 160 and multiplying by 0.02). Total required off-street parking would be less 37 parking spaces if calculated using a separate FTE staff ratio (High School vs. Elementary /Middle school). The narrative identifies 134 Elementary/Middle school students and 22 High School students based on current enrollment figures.

Staff notes that under Section 60.30.10.7, it may be determined that more parking spaces for motor vehicle and bicycle parking may be required as a condition of Conditional Use. In addition to the Group Mackenzie study dated April 24, 2013, a supplemental document prepared by Group Mackenzie (dated May 23, 2013), titled "Transportation Response to Completeness Review Comments" describes how there will be no ancillary uses occurring on-site during school hours. The supplemental document also acknowledges other activities

(outside of weekday school hours) but explains how these activities occur at the existing school site (for MET on Scholls Ferry) which has less parking than what the subject property provides. The document concludes by stating that the anticipated parking demand can be accommodated on-site without the need to utilize off-site parking.

The applicant's letter dated June 14, 2013, titled "Supplemental narrative with drop-off and pick-up procedure" describes the policies adopted by MET to ensure safe and efficient vehicle circulation through the site. Staff notes that one policy requires parents to remain at the wheel as they arrive, with school staff assisting students in and out of vehicles.

While MET has adopted a policy for no-parking during parent arrival periods, staff notes that other schools have different policies where parents are required to park first then escort their children to/from the school buildings. For this site, staff finds that the number of parking spaces provided on-site (61) could exceed demand during the peak arrival periods if parents are allowed to park their vehicles. Because Conditional Use approval runs-with-the-land, a different school (other than MET) could assume operation under the same conditions. For this reason, staff recommends a condition of approval that would prohibit the ability to park vehicles during the peak parent arrival periods. The same condition refers to the AM and PM peak vehicle queues (Exhibits A and B) as prepared by the applicant. Staff notes that some students (Preschoolers and Kindergartener) would be released earlier in the day (noon and 1:30pm). MET estimates approximately ten vehicles to arrive during the earlier release periods. The applicant's no-park policy is intended to begin later in the day when parents arrive to pick-up children attending Middle School and High School. Staff further evaluates the applicant's circulation/queuing plan in response to Criterion F herein.

As for vehicle trip generation, staff cites the findings stated above in response to Criterion A and incorporates hereto in response to Criterion D. As previously mentioned, the site has two existing accesses/driveways, both of which meet the minimum spacing standards of the Beaverton Engineering Design Manual. Existing site access locations provide adequate intersection spacing and sight distance (60.55.35.3). No new accesses are proposed. No modifications to these accesses are recommended.

In response to Criterion D above, staff finds the proposal consistent with applicable provisions of Chapter 60. For the reason stated above, staff recommends a condition of approval that prohibits the ability to park vehicles during the peak parent AM and PM arrival periods.

Therefore, with conditions, the Committee finds the proposal meets the criterion for approval.

E. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas, as applicable: drainage facilities, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas, and other facilities not subject to maintenance by the City or other public agency.

Finding: In response to Criterion E, the applicant describes a lease agreement between the landlord and tenant for specific maintenance obligations of both parties. Additionally, a letter addressed to the City (Perkins Coie dated May 23, 2013) provides a supplemental response to Criterion E. The letter is incorporated hereto as findings in support of E above. In review of the

proposal, the Committee finds that the proposal does not present any barriers, constraints, or design elements that would prevent or preclude required maintenance of the private infrastructure and facilities on site.

Therefore, the Committee finds the proposal meets the criterion for approval.

F. There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the development.

Finding: As previously stated, the site has two vehicle access points along SW Nimbus Avenue. The applicant's response to F refers to the "On-site Parking and Circulation" letter prepared by Group Mackenzie, dated April 24, 2013, describing the on-site circulation plan. The applicant also refers to a drawing that illustrates the proposed circulation plan. In addition to the memo of April 24, 2013, staff received a technical memorandum from Group Mackenzie dated May 23, 2013. This memo further addresses on-site queuing and circulation associated with the pick-up and drop-off practices of the proposed PreK-12 school use.

The primary points of the queuing analysis/on-site circulation memo include the following:

- During drop-off/pick-up periods for the proposed school, the southwest driveway entrance on SW Nimbus will be temporarily barricaded with plastic cones to force use of the north driveway (for entrance only). Exiting will continue to be permitted at the southwest driveway.
- During drop-off/pick-up periods for the proposed school, the parking spaces directly in front of the building entrance will be barricaded with plastic cones. Students will exit the vehicles in the drop-off zone and may proceed to the main entrance.
- Faculty members will be outside during drop-off/pick-up periods to monitor traffic flow and provide for safe student crossing.
- The proposed site can accommodate a single vehicle queue of 17 vehicles.
- The site of the existing school, 10330 SW Scholls Ferry Road, was evaluated during the existing PM pick-up period, which was found to last approximately 20 minutes and had a maximum observed queue of 14 vehicles.

The applicant's letter dated June 14, 2013, further explains the operational aspects of the queue system for drop-off and pick-up. The letter of June 14 also provides a PM pick-up queue diagram. The diagram shows how a double-lane vehicle queue can be formed (if necessary) and where parking for staff is intended. The letter of June 14 further describes how school staff will use their walkie-talkies to communicate with staff inside the school, instructing which students are to be released. School staff would then assist the released students into the waiting vehicle. The school schedule (as applied by MET) is another matter of consideration for the proposed vehicle queue. The letter of June 14, explains how there will be three separate release times. Accordingly, not all parents are expected to arrive at approximately the same time.

For the PM peak vehicle arrival times, staff acknowledges the applicant's modified site plan for the PM pick-up time (Exhibit B) and how a double lane queue can be constructed on-site to avoid vehicle spill-over into the fire lane, the abutting property to the north, or to SW Nimbus Avenue. Staff further finds that the double lane vehicle queue can be achieved simply with the use of plastic cones. A white stripe through the vehicle aisle (as depicted on the plan) is

unnecessary as the queue periods are intended only for the peak arrival periods, Monday through Friday.

It should be noted that during the AM drop-off period (from 8:10am to 8:30am) staff observed several vehicles headed north-bound on Nimbus Avenue. However, staff also found that a left-out from the site is possible and therefore should not deter the flow of vehicles through the queue as shown. This finding is based on two field visits, one of which staff counted the number of vehicles traveling north and south bound and recorded the number and time interval when a left-turn from the site would be possible. Specially, on Wednesday, June 12, from 8:10am to 8:30am, staff counted 194 north-bound vehicles and 48 south-bound vehicles. During the same period, staff counted a total of 45 time intervals where no vehicles were traveling either way allowing sufficient time for a safe left turn out. The no-vehicle intervals ranged from three seconds to 30 seconds, with a median period of eight seconds.

In summary of the findings above, the Committee finds the proposal meets Criterion F if parents are prohibited from parking during peak arrival hours. Staff further finds a condition of approval to be appropriate, to ensure execution and posterity of the parking policy and the vehicle queue/circulation plan as proposed by the applicant.

Therefore, with conditions, the Committee finds the proposal meets the criterion for approval.

G. The development's on-site vehicular and pedestrian circulation systems connect to the surrounding circulation systems in a safe, efficient, and direct manner.

Finding: As previously stated, the subject property has two existing access points along the street frontage of SW Nimbus Avenue. No new accesses are proposed. Staff cites the findings as stated in response to Criterion F above. Additionally, staff notes that the north access is shared with the abutting property (to the west). Where Criterion G refers to the surrounding circulation system, staff finds the applicant's on-site queue proposal to provide sufficient stacking distance for the number of vehicles expected to enter the site from the shared access. The north access is also the only portion of the site where a fire lane is found. A proposed condition of approval requires all fire lanes to be kept free and unobstructed at all times.

Therefore, with conditions, the Committee finds the proposal meets the criterion for approval.

H. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate fire protection, including, but not limited to, fire flow.

Finding: According to the applicant, the site is fully developed and received all required approvals at the time it was built. In response to H, staff finds that existing structures have been designed in general accordance with adopted City Codes and standards. However, staff also notes that current occupancy of the building (Group B) is not the occupancy required for a school. Comments provided by the City Building Official (Pre-Application notes of November 14, 2012) identify the need for changing building occupancy (from Group B to Group E). To date, building occupancy remains at Group B.

In response to the Conditional Use proposal, the City Building Official has determined that a Building Permit will be required to change occupancy and for any work associated with that change. Also, a design professional will need to prepare plans for that change. To date, the City Building Official acknowledges past discussions with a design professional hired by the property owner. The amount of change required for Group E occupancy on temporary basis has also been discussed.

For temporary use of the space, the City Building Official has determined that no structural (seismic) upgrades will be required at this time. However, should the school need to remain in the building for longer than two years, or should another Group E occupancy propose to use the building after the Muslim Educational Trust, structural upgrades (and other code issues) would be required to meet the current State Building Code.

The City Building Official further explains how the school may need to add some exit signs (these can be placard type, not hard wired), and that emergency lighting will be required and maybe panic hardware on one door (according to the design professional, the main entry doors are already equipped). Other items, such as the number of toilets/lavatories can be approved as is. According to the City Building Official, the requirement for a drinking fountain can be solved with a portable water cooler. Also, some rooms may be a small amount over 50 occupants. In these cases, the City can post the occupant load not to exceed 49.

All said above, a design professional will need to provide further analysis of the existing space and a Building Permit through the City will be required. However, there is no concern as to the feasibility for providing these upgrades. A proposed condition of approval requires the applicant to obtain a Building Permit through the City for a change of occupancy. The condition also states that a permit for temporary occupancy may be obtained for a limited period as determined by the City Building Official and described under permit.

Therefore, with the condition requiring a building permit, the Committee finds the proposal meets the criterion for approval.

- I. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate protection from crime and accident, as well as protection from hazardous conditions due to inadequate, substandard or ill-designed development.***

Findings: As previously stated, the site is fully developed. Staff also cites the findings above in response to H.

Therefore, with the condition requiring a building permit, the Committee finds the proposal meets the criterion for approval.

- J. Grading and contouring of the development site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.***

Findings: The proposal does not include any physical improvements to the site. Therefore, this criterion is not applicable.

Therefore, the Committee finds that the criterion is not applicable.

- K. Access and facilities for physically handicapped people are incorporated into the development site and building design, with particular attention to providing continuous, uninterrupted access routes.***

Findings: According to the applicant, there are two handicapped parking spaces directly in front of the main building entrance, and there are existing sidewalks around the front of the building adjacent to the parking areas. The applicant also describes a pedestrian connection from the building to the sidewalk adjacent to the roadway. Staff concurs and notes that all ADA facilities are shown to remain.

Therefore, the Committee finds the proposal meets the criterion for approval.

- L. The application includes all required submittal materials as specified in Section 50.25.1 of the Development Code.***

Findings: The proposed Conditional Use was deemed complete by the applicant on May 9, 2013. Thereafter, the applicant provided additional materials within 14 days as described under 50.25. In the review of the materials submitted to date, the Committee finds that all application submittal requirements are provided.

Therefore, the Committee finds the proposal meets the criterion for approval

Code Conformance Analysis
Chapter 20 Use and Site Development Requirements
Office-Industrial Washington Square (OI-WS) Zoning District

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Sections 20.20.20			
Conditional Uses	Educational Institutions	160 Student K-12 School	Yes, if approved
Development Code Section 20.20.15			
Minimum Lot Area	none	Two acres	N/A
Minimum Lot Dimensions	none	Not applicable, no new lots proposed	N/A
Yard Setbacks Minimums: Front Sides Rear	None for front or rear 10-feet for sides	Not applicable, no physical improvements proposed	N/A
Maximum Building Height	60 feet (without an adjustment or variance)	Not applicable, no physical improvements proposed	N/A

Chapter 60 – Special Requirements

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 60.30.10.5			
Off-Street Parking			
Off-Street Parking	<u>Elementary / Middle School</u> One space per full time staff (FTE) for K – 8 <u>High School</u> 0.2 spaces per FTE students and staff	Breakdown of Existing: 22 High School students; 134 Elementary and Middle School students. Applicant identifies 23 FTE staff Existing site accommodates 61 parking spaces which exceed minimum.	Yes
Off-Street Bicycle Parking	Short term not required. Long term is 1 per 18 H.S. students and 1 per 9 middle / elementary students	A bicycle rack (for approx.15 bikes) is to be placed on-site.	Yes, per condition
Development Code Section 60.55			
Transportation			
Transportation Facilities	Regulations for transportation facilities and thresholds for TIA	Net new trip generation at 177 trips which is below TIA trip threshold	Yes
Development Code Section 60.60			
Trees & Vegetation			
Tree & Vegetation Regulations	Preservation for “protected” trees	Not part of proposal	N/A
Mitigation Requirements for Landscape Tree Removal	1:1 mitigation required based on DBH removed.	Not part of proposal	N/A
Development Code Section 60.65			
Utility Undergrounding			
Utility Undergrounding	All existing utilities and any new utility service lines must be undergrounded.	Not part of proposal	N/A

**ANALYSIS AND FINDINGS FOR
CONDITIONAL USE APPROVAL
Educational Institution at 9800 SW Nimbus Avenue
CU2013-0004**

Section 40.15.15.3.C Conditional Use Approval Criteria:

In order to approve a New Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. *The proposal satisfies the threshold requirements for a Conditional Use application.*

Findings: The applicant's response to the Conditional Use approval criteria is found in the document titled "Narrative in Support of the Conditional Use Application Proposed by Nimbus Watumull, LLC and Madrona Nimbus, LLC." The applicant's response is incorporated hereto as findings in support of the Conditional Use approval criteria.

In response to Criterion No. 1, the applicant correctly identifies Educational Institutions as a Conditional Use of the City OI-WS zone. The applicant's narrative also identifies a vocational facility (New Horizons Computer Learning Center) that formerly occupied the property. In the OI-WS zone, job training and vocational rehabilitation services are allowed as a permitted use, all other commercial schools require Conditional Use approval (20.20.25. #67). The proposed school (K through 12th grade in this case) is consistent with the Development Code definition of *Educational Institution* found in Chapter 90.

Therefore, staff finds the proposal meets the criteria for approval.

2. *All City application fees related to the application under consideration by the decision making authority have been submitted.*

Findings: Staff confirms that the required fee for this application has been submitted.

Therefore, staff finds the proposal meets the criterion for approval.

3. *The proposal will comply with the applicable policies of the Comprehensive Plan.*

Findings: Two policies of the Comprehensive Plan appear to be applicable as the proposed Conditional Use introduces a new school to the subject property. The two policies are found in Chapter 6 of the Comprehensive Plan, under Goal 6.2.3 titled: *A Safe Transportation System*. The applicant's narrative responds to both policies ("d" and "h" cited below).

Chapter 6 (Transportation Element)

6.2.3. Goal: A safe transportation system.

Policy d. Designate safe walkway and bikeway routes from residential areas to schools, parks, transit and other activity centers.

Finding: In response to Policy d, the applicant describes sidewalks on all roadways and bike

lanes on Scholls Ferry Road. The applicant also identifies pedestrian connections from the sidewalk adjacent to the building and to the sidewalk adjacent the roadway, and ultimately to the surrounding neighborhood and the Fanno Creek Greenway.

Staff confirms the location of sidewalks along SW Nimbus from SW Scholls Ferry Road. Staff also incorporates the findings prepared in response to the Facilities Review approval criteria (Section 40.03) and therefore finds that the policy has been met.

Policy h. Ensure that adequate access for emergency services vehicles is provided throughout the City.

Finding: In response to Policy h, the applicant refers to site accesses and drive aisles having been constructed to the City standard and being wide enough to accommodate all emergency vehicles. Staff concurs and incorporates the findings prepared in response to the Facilities Review approval criteria. Additionally, staff notes that the applicant's plans for vehicle queue during the AM and PM periods (Exhibits A and B, respectively) have been reviewed by Tualatin Valley Fire and Rescue (TVF&R). Attached is a letter dated May 22, 2013 from the Deputy Fire Marshal of TVF&R, prepared in response to the applicant's AM and PM vehicle queue plan. The Fire Marshal endorses the proposal predicated on a condition requiring the fire lane to be clear and unobstructed at all times. Staff notes that the location of the fire lane is confined to one portion of site (at the north vehicle entrance). There is no fire lane through the drive aisle where the applicant identifies the queue for drop-off/pick-up. Staff will confirm that the Fire Marshal has also visited the site to measure the building distance from the street frontage of SW Nimbus Avenue. In this case, the existing building is located in close proximity to the street frontage. The Fire Marshal has determined that a fire truck would be able to park and stage along Nimbus Avenue if necessary.

In summary, two Comprehensive Plan policies have been identified as potentially applicable. Staff finds that the applicant has provided sufficient evidence to show how the proposal will comply with these policies. The condition required by the Deputy Fire Marshal is proposed hereto and is feasible to maintain.

Therefore, staff finds the proposal meets the criterion for approval, subject to conditions.

4. *The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.*

Findings: In response to Criterion No. 4, the applicant states that no construction is required to enable the proposed school to inhabit the existing building. Herein, staff has described certain necessary changes to the building interior. These changes are described in the staff response to Section 40.03 (Facilities Review) under Criterion H (describing the E Occupancy Group). Staff also finds these building changes to be negligible and feasible for the applicant accomplish in order to accommodate the proposal.

Therefore, staff finds the proposal meets the criterion for approval, subject to conditions.

5. *The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have minimal impact on livability and appropriate*

use and development of properties in the surrounding area of the subject site.

Findings: In response to Criterion No. 5, the applicant identifies the uses within the surrounding area. The applicant also identifies the hours when the school is to operate and the fact that all school activity will occur inside the existing building with no outdoor play area. The applicant also acknowledges some noise associated with the use, but explains how this noise will be localized and limited to the periods when parents are expected to drop-off and pick-up their children. On page 4 of the narrative, the applicant explains:

“There may be increased activity and children’s noise during the drop-off at 8:30am and during the pick-up at 3:30pm; however, such activity and noise will be limited in duration and only occur in the short distance between leaving the building and entering waiting cars.”

Staff concurs and incorporates the applicant’s letter dated June 14, 2013 as findings in response to Criterion No. 5. The applicant’s letter of June 14 describes a school policy where parents are not allowed to park on-site and leave their vehicle during the AM and PM arrival periods. To Criterion No. 5, staff also cites the findings prepared in response to Section 40.03 and specifically in response to Criterion F.

To date, staff has received no written comments in response to required Notices (mailed to all property owners in a 500-foot vicinity and posted on-site for at least 20-days prior to the scheduled hearing date). Therefore, with the condition restricting school hours on Monday through Friday, and prohibiting parents from parking during the AM and PM vehicle arrival periods, staff finds that the school can be made reasonably compatible with the livability and appropriate use and development of properties in the surrounding area of the subject site.

Therefore, staff finds the proposal meets the criterion for approval, subject to conditions.

6. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

Finding: The applicant submitted all documents related to this request for a Conditional Use approval. As explained in the findings for 40.03, a Building Permit is necessary prior to the school beginning operation.

Therefore, staff finds the proposal meets the criterion for approval, subject to conditions.

Recommendation

Based on the facts and findings presented, staff recommends **APPROVAL** of **CU2013-0004 (Educational Institution at 9800 SW Nimbus)** subject to the conditions of approval identified in Attachment C of this report.

CONDITIONS OF APPROVAL
Educational Institution at 9800 SW Nimbus (CU2013-0004)

1. Prior to the school beginning operation, a Building Permit through the City will be required for a change of Occupancy (from Group B to Group F). A permit for temporary occupancy may be obtained for a limited period as determined by the City Building Official and described under permit. (BR/Building)
2. School hours recognized through this Conditional Use approval are limited to 8:30am through 3:20pm, Monday through Friday. School hours during other days of the week, and ancillary after-school activities, including but not limited to parent-teacher meetings, are not subject to the hours limitation. (SW/Planning)
3. This Conditional Use approval recognizes an educational institution (Pre-K through 12th grade) not to exceed a maximum enrollment of 160 students. (SW/Planning)
4. The site plan graphics (Exhibits A and B) depicting entrance-only from the north access and exit-only from the south vehicle access, shall be recorded with the Washington County Recorder's Office. Cones and signs directing vehicles to enter and exit the property as shown, shall be in place prior to the beginning and end of school hours identified herein, Monday through Friday. To ensure the flow of vehicles through the site during the AM and PM peak arrival periods, vehicles arriving for student drop-off or pick-up are not to be parked on-site. (SW/Planning)
5. Fire lanes are to be kept free and unobstructed at all times. (JF/Fire Marshall)
6. A bicycle rack is to be provided on-site (for approximately 15 spaces) at the time when the educational institution use is operating on-site. (SW/Planning)
7. The Conditional Use permit shall run with the land and shall continue to be valid upon a change of ownership of the site or structure unless otherwise specified in conditions attached to the permit. (SW/Planning)
8. The land use order shall be recorded with the Washington County Recorder's Office. (SW/Planning)
9. Conditional use approval does not recognize an outdoor play area. Conditional Use Modification approval is required for addition of an outdoor play area. (SW/Planning)

No Site Development permit is required, as there are no exterior changes to the site.